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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,242	12/01/2000	Christopher Cosgrove Creagan	13451	2514

7590

08/16/2002

James B. Robinson
Kimberly-Clark Worldwide, Inc.
Patent Department
401 North Lake Street
Neenah, WI 54956

EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 08/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/728,242

Applicant(s)

CREAGAN ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claim 1, 2, 4-8, and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al. (5,350,370) in view of Mukaida et al. (5,672,419).
4. With respect to Claims 1, 2, 4-6, and 16-20: Jackson discloses the use of an absorbent material that comprises 50-90 percent superabsorbent, and the material being compressed to form a density of about 0.1 to 0.5 grams per cubic centimeter (see abstract). Jackson also discloses the material being swellable when wet (column 6, line 44).
5. Jackson discloses the use of 3-30 % of pulp fiber, however, does not disclose that the absorbent material comprises a crimped thermoplastic fiber. Mukaida discloses a fibrous material can be in staple form (which the examiner considers to be a crimped form). Mukaida

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also shows that organic synthetic fiber such as bicomponent fibers in a side by side arrangement and made of polyvinyl alcohol and polyethylene or polypropylene, is an equivalent structure known in the art (see column 5, lines 11-35). Therefore, because the pulp fibers and bicomponent fibers were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the organic bicomponent fiber for the pulp fiber.

6. With respect to Claim 3: Mukaida discloses that the thermoplastic fibers can be a polyurethane-based fibers (column 5, lines 11-25), which is an elastomeric fiber

7. With respect to Claim 7 and 8: Jackson discloses the use of adhesive sprays as a binder (column 6, line 21).

8. With respect to Claim 12-15: Jackson discloses the absorbent material to be of use in diapers, training pants, incontinence garments, sanitary napkins, bandages and the like (see column 3, lines 9-11).

9. With respect to Claim 11: Jackson discloses that the superabsorbent material swells but does not disclose the material swelling 50%. It would have been an obvious matter of design choice to have to absorbent material swell 50%, since applicant has not disclosed that the 50% swell solves any stated problem, or is for any particular purpose and it appears that the invention would perform equally well with the absorbent material of Jackson and Mukaida.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson and Mukaida as applied to claim 1 above, and further in view of Pike et al. (5,382,400).

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11. Jackson and Mukaida fail to teach the crimped thermoplastic fibers, being mechanically crimped. Pike discloses the use of helically crimping fibers used in non-woven webs using a process that involves heating to activate the crimp (See abstract and column 3, lines 27-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the crimped fibers of Jackson and Mukaida, be helically crimped using the process of Pike, in order to provide the non-woven web with desirable combinations of physical properties such as softness and strength. (see Pike, column 3).

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson and Mukaida as applied to claim 1 above, and further in view of Tsai et al. (5,401,446).

13. Jackson and Mukaida, fail to teach the absorbent material having an electret charge. Tsai discloses a method of electrostatically charging a web by subjecting the web to an electric field, and to where the polarity of the field is reversed, relative to the web. (see abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have absorbent material of Jackson and Mukaida, have the electret charge, as disclosed by Tsai, in order to make the web bipolar, and therefore show high filtering efficiency. (See Tsai column 4).

Response to Arguments

14. Applicant's arguments filed 6/15/02 have been fully considered but they are not persuasive.

15. Applicant has argued the combination of the references of Jackson and Mukaida in terms that the examiner has not demonstrated that pulp fibers and bicomponent fibers are art-

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recognized equivalents. The Mukaida references disclose cellulose based pulp material and bicomponent fibers material are interchangeable, therefore it is the examiner's opinion this means that they are equivalents. Mukaida discloses the material is interchangeable, therefore it is the examiner's opinion that one of ordinary skill in the art at the time the invention was made, would know that the cellulose pulp and the bi-component fibers are interchangeable and therefore would find it obvious to exchange one material for the other. The applicant's argument that Mukaida would not be motivated to substitute the materials for the claimed percentages, however it should be pointed out that Jackson discloses the claimed percentages, therefore the rejection is only substituting one material for another, and therefore would be obvious for reasons stated above. Mukaida discloses the same material that is in the claims, therefore it is the examiner's position that the material would act in the same manner, therefore the crimped fibers of Mukaida would be expandable, as in the instant invention. Rejection stands as stated above.


16. The remaining rejection are based on the fact that the examiner has not made out a prima facie case of obviousness for the combination of the Jackson and the Mukaida reference. As stated above the examiner believes the combination of the two references was in fact proper, therefore all rejections stand as stated above.

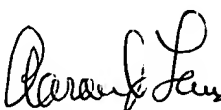
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Ruhl can be reached on (703)308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw 
August 12, 2002


Aaron J. Lewis
Primary Examiner